

INTENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/GB2004/003165	International filing date (day/month/year) 21.07.2004	Priority date (day/month/year) 21.07.2003	
International Patent Classification (IPC) or both national classification and IPC C12N15/10			
Applicant DNA RESEARCH INNOVATIONS LIMITED			

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:	Authorized Officer
 European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Mueller, F Telephone No. +49 89 2399-7722



WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material:
 in written format
 in computer readable form
 - c. time of filing/furnishing:
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

W. ITEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/GB2004/003165

Box No. II Priority

1. The following document has not been furnished:

copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-32
Inventive step (IS)	Yes: Claims	
	No: Claims	1-32
Industrial applicability (IA)	Yes: Claims	1-32
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)
and / or
2. Non-written disclosures (Rules 43bis.1 and 70.9)

see form 210

Re Item V.

1 The following documents are referred to in this communication:

D1 : WO 01/88185 A

D2 : EP 0 268 946 A

D3 : US 6 277 648 B1

2. The subject-matter of independent claims 1,16, and 25 is not clear (Article 6 PCT). The wording of these claims is not defined by structural and/or technical features which allow a clear differentiation to the devices and methods already provided in the prior art for isolating nucleic acids, see D1-D3.

3. The subject-matter of independent claims does not fulfill the requirements of Article 33(2) PCT. Because of the broad wording of the independent claims 1,16 and 25 it is considered the claimed subject-matter is already described in the prior art D1-D3. D1-D3 already provides devices and methods which allows the purification of nucleic acids from sample solutions. Furthermore it seems that by inserting of structural features to the claimed subject-matter for generating novelty with respect to the prior art, no special technical effect of the claimed subject-matter in comparison with the prior art could be identified and therefore a lack of an inventive step will still be present (Article 33(3) PCT), see also WO0248164.

4. Certain defects in the international application

- Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1,D3 is not mentioned in the description nor are these documents identified therein.
- The specification for an international application should be self-contained without reference to any other document (cf PCT Guidelines, C-II,4.17). The expression "incorporated by reference" found on page 15, I.28 is therefore not according to the PCT requirements.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING
AUTHORITY (SEPARATE SHEET)**

International application No.
PCT/GB2004/003165